

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DOUGLAS W. VOUGHT, : **CIVIL ACTION NO. 1:18-CV-1113**

Plaintiff : **(Chief Judge Conner)**

v. :

TWIN TIER HOSPITALITY, L.L.C., :

Defendant :

ORDER

AND NOW, this 17th day of June, 2019, upon consideration of the motion (Doc. 14) by defendant Twin Tier Hospitality, L.L.C. (“Twin Tier”), seeking to dismiss the amended complaint of plaintiff Douglas W. Vought (“Vought”) or in the alternative, to strike portions thereof, and the parties’ respective briefs in support of and opposition to said motion, and for the reasons stated in the accompanying memorandum, it is hereby ORDERED that:

1. Twin Tier’s motion (Doc. 14) to dismiss is GRANTED in part and DENIED in part as follows:
 - a. Vought’s disability discrimination claim premised on his alleged constructive discharge is DISMISSED.
 - b. Vought’s failure-to-accommodate claim is DISMISSED.
 - c. Twin Tier’s motion (Doc. 14) is otherwise DENIED.
2. Vought is granted leave to file a second amended complaint within 21 days of the date of this order. In the absence of a timely filed second amended complaint, the above-captioned action shall proceed on the following claims:

- a. Disability discrimination premised on Twin Tier's failure to consider Vought for rehire.
- b. Retaliation based on Vought's constructive discharge and Twin Tier's failure to consider Vought for rehire.

3. Twin Tier's deadline to respond to the amended complaint under Federal Rule of Civil Procedure 12(a)(4)(A) is DEFERRED for the duration of the 21-day amendment period set forth in paragraph 2 above.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania